



# STATE OF ARKANSAS

Office of the Attorney General

Winston Bryant  
Attorney General

Telephone:  
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Opinion No. 94-134

June 2, 1994

The Honorable Billy Joe Purdom  
State Representative  
Rout 1. Box 135B  
Yellville, Arkansas 72687

Dear Representative Purdom:

This is in response to your request for an opinion on the following question:

The Oakland/Promise Land Volunteer Fire Department is charging each membership a one-time special building expansion fee in addition to their membership dues. The membership dues are based on the member's total assessed value of properties owned. If an individual does not wish to pay the one-time special building expansion fee, and only pays the membership dues, does the Oakland/Promise Land Volunteer Fire Department have the authority to refuse membership?

It is my opinion that this question will not be controlled by the law of this state, but rather by the articles of incorporation and by-laws of the Oakland/Promise Land Volunteer Fire Department. It is my understanding that the Oakland/Promise Land Volunteer Fire Department is incorporated as a nonprofit corporation under either A.C.A. §§ 4-28-201 to -410, or A.C.A. §§ 4-33-101 to -1706 (Cum. Supp. 1993) (see A.C.A. § 4-33-1701). Under either subchapter, in my opinion, the corporation would have authority to assess a fee in the nature of a "building expansion fee" as described above. See A.C.A. 4-28-209 (1987) and A.C.A. § 4-33-302(14). It is my understanding that the building expansion fee was adopted by a two-thirds

vote of the membership of the nonprofit corporation. Whether the Department has the authority to deny membership based upon a failure to pay the "building expansion fee" is a question which will be controlled by the articles of incorporation, by-laws and votes of the board of directors and membership of the Department. This office is not in a position to make judgments regarding such documents and actions.

The foregoing opinion, which I hereby approve, was prepared by Deputy Attorney General Elana C. Wills.

Sincerely,

A handwritten signature in black ink, appearing to read "Winston Bryant". The signature is fluid and cursive, with the first name "Winston" and last name "Bryant" clearly distinguishable.

WINSTON BRYANT  
Attorney General

WB:cyh